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DOUGLAS T. JOHNSON
MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA TN 37402-2289

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DEC 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Bowling and Adams	:	
Application No. 10/630,290	:	DECISION REFUSING STATUS
Filed: 30 July, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 10326-0001	:	
33,212	:	

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 1 November, 2004.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.

Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 July, 2003, with a declaration naming Michael Bowling and Phil Adams as joint inventors and signed by joint inventor Bowling and by petitioner's counsel on behalf of joint inventor Adams. The petition filed on 30 July, 2003, was dismissed on 20 August, 2004. The renewed petition filed on 13 September, 2004, was dismissed on 18 October, 2004.

The present renewed petition contains the second page of a declaration signed by joint inventor Bowling of behalf of himself and non-signing joint inventor Adams.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

With regards to item (2), the declaration submitted with the present renewed petition is defective in that it is incomplete. Specifically, petitioners did not submit Page 1 of the USPTO declaration form with the present renewed petition. If the wording of the declaration is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required.¹ The information required by 37 CFR 1.63 is not included on the oath or declaration submitted with the present petition. A complete oath or declaration in compliance with 37 CFR 1.63, 1.64, and 1.67, naming the inventive entity and signed by all of the signing inventors on behalf of themselves and the non-signing inventor(s) must be submitted with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

¹See MPEP 602.01. The oath or declaration cannot be amended. Id.

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petitions
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions